

United States District Court

 RECEIVED
 1600 CLARK, COLUMBIA, SC
DISTRICT OF South Carolina

2006 MAY 22 P 3:39

UNITED STATES OF AMERICA

V.

Brett Shannon Johnson**CRIMINAL COMPLAINT**CASE NUMBER: 3:06-570

(Name and Address of Defendant)

I, the undersigned complainant being duly sworn state the following is true and correct to the best of my knowledge and belief. On or about March 2006 in Lexington county, in the _____ District of South Carolina, defendant(s) did, (Trace Statutory Language of Offense)

devise a scheme to defraud by filing fraudulent tax returns online (through the H&R Block website) in other individuals names and using such individuals personal identifiers (social security number), without permission or knowledge by the individual, and having such fraudulent returns deposited to stored value cards (access devices) and withdrawing the funds from automated teller machines (ATMs).

in violation of Title 18 / 42, United States Code, Section(s) 1343, 1028A, 1029 and 371 / 408(a)(7)(B).

I further state that I am a(n) Special Agent - USSS and that this complaint is based on the following facts:

Official Title

See attached affidavit.

Continued on the attached Sheet and made a part hereof:

☒ Yes ☐ No

Signature of Complainant

Sworn before me and subscribed in my presence,

Date

May 22, 2006

at

City and State

Columbia, SC
BRISTOW MARCHANI
U: S. MAGISTRATE JUDGE

Name and Title of Judicial Officer

Signature of Judicial Officer

IN THE UNITED STATES DISTRICT COURT FOR THE

DISTRICT OF SOUTH CAROLINA

Columbia, SC

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**AFFIDAVIT OF BOBBY J. KIRBY IN SUPPORT OF
ARREST WARRANT
FOR BRETT SHANNON JOHNSON**

1. I, Bobby J. Kirby, a Special Agent with the United States Secret Service (hereafter "USSS"), having been duly sworn, depose and state the following:
2. I have been employed as a Special Agent with the USSS since February 2003. During that time, I have received formal training in the investigation of financial crimes, including Bank Fraud, Wire Fraud, Access Device Fraud, counterfeiting of United States currency, and Identity Theft. In addition, I have received formal training in the examination of computers for forensic evidence. I have had approximately two years of experience in the forensic examination of computers. I am familiar with the methods by which data is stored on a computer's media. Additionally, I am familiar with methods in which data can be retrieved for evidentiary purposes despite its apparent deletion. During my tenure, I have investigated or assisted in the investigation of a number of cases involving violations of Wire Fraud, Access Device Fraud, and Identify Theft; including those that have been conducted and facilitated via the use of computer and related electronic media.
3. The information contained in this affidavit is based on my personal knowledge and observations during the course of this investigation and other related investigations. Since this affidavit is submitted for the limited purpose of establishing probable cause, I have not set forth each and every fact known regarding this investigation.
4. This affidavit is submitted in support of the Government's application for an arrest warrant for Brett Shannon Johnson (hereafter "JOHNSON"). JOHNSON began working as a Confidential Informant for this Service in May 2005, and was residing at the USSS undercover apartment located at 3609 Juneau Road, Apt. 22-B, Columbia, SC 29210, during the course of a Columbia Field Office investigation. I believe that probable cause exists in which JOHNSON committed violations of Title 18 U.S. Code §1028A (Aggravated Identity Theft), Title 18 U.S. Code §1029 (Fraud and related activity in connection with access devices), Title 18 U.S. Code §1343 (Fraud

by wire, radio, or television), Title 42 U.S. Code §408(a)(7)(B) (Misuse of a Social Security Number) and Title 18 U.S. Code §371 (Conspiracy to commit offense or defraud the United States).

5. In May 2005, JOHNSON began working as a Confidential Informant for this Service in Columbia, SC. JOHNSON would report to Agents of the Columbia Field Office and work for approximately four (4) to six (6) hours per day. JOHNSON was responsible for using a computer, going online, and monitoring websites and forums that are dedicated to promoting internet fraud schemes; electronic theft of personal financial and identifying information; trafficking in and use of stolen credit card and debit card information ("dumps"), stolen bank account information, and other stolen individual identifying information; and the production of, trafficking in, and use of counterfeit identification documents. Additionally, JOHNSON would participate in conversations via internet chat discussing the schemes listed above.
6. During the course of this investigation, JOHNSON, under supervision and monitoring by Agents of this Service, has received files, via internet chat and email, containing personal identification and identifiers, names, addresses, credit card information, and related information that was to be used in furtherance of this investigation to assist with identifying criminal targets who were facilitating crimes involving identify theft and access device fraud. Additionally, JOHNSON described to Agents of this Service how persons facilitating such schemes would use computers and related electronic equipment from public access locations, such as public libraries, internet cafes and locations such as FedEx/Kinkos, to take advantage of the anonymity offered by these types of locations.
7. One particular scheme discussed in detail by JOHNSON and a target of this investigation (located in Los Angeles, CA), involved the filing of fraudulent tax returns online. JOHNSON stated that he had taught this target everything about filing fraudulent tax returns using the identities of both live and deceased individuals. JOHNSON described the scheme in great detail as to how to obtain an individual's identifiers, such as name, address, date of birth, and social security number from online resources, such as the California Death Index. JOHNSON also described that the information needed to file the fraudulent tax returns could be stored on any electronic media, such as thumb drives and web-based email. These types of electronic media are used so the individual filing the return could go to public computer access points, such as libraries, internet cafes, and FedEx/Kinkos locations, insert the external media device or access the web-based email and file in anonymity. Additionally, JOHNSON discussed in great detail how the fraudulent returns were usually



funded to stored value cards so the individual could easily withdraw the funds from any ATM.

8. During the course of this investigation, this Service provided JOHNSON with an undercover USSS apartment, located at 3609 Juneau Road, Columbia, SC. This Service paid for rent on the apartment and electricity on a monthly basis, and paid JOHNSON per diem on a daily basis for the entire length of this investigation.
9. As part of JOHNSON's working arrangement as a Confidential Informant for this Service, JOHNSON was told he was not to use any computer equipment and related electronic media and electronic data without direct supervision and monitoring from Agents of this Office. In addition, JOHNSON was not to discuss this investigation with anyone other than Agents of this Service. JOHNSON was also advised that he and the premises could be searched at any time by Agents of this Service. JOHNSON agreed to these operational requirements prior to participating in this investigation as a confidential informant.
10. On 03/30/06, JOHNSON was interviewed by Agents of this Service and admitted to compromising this investigation by passing sensitive information such as operation setup, potential targets, and forums being utilized, to an unauthorized individual. Additionally, JOHNSON admitted to using computers to go online without authorization from this Service during the course of this investigation.
11. On 03/30/06, Agents of this office accompanied JOHNSON to the undercover residence prior to transporting him back to Charleston, SC. While in the undercover residence, several FedEx/Kinkos access cards were observed and seized by the agents. These cards were used to purchase online computer time from any FedEx/Kinkos location. Examination of these cards revealed dates and times JOHNSON used computers without authorization or monitoring by this Service.
12. On 03/31/06, a search of the undercover USSS apartment occupied by JOHNSON yielded additional FedEx/Kinkos access cards used to purchase online time. Additionally, several items of evidentiary value were found to include: (1) a memo book containing account numbers and personal identification numbers and a thumb drive located in a toiletry kit in the bathroom; (2) a stored value card located in a shoe in the master bedroom closet; (3) a Rubbermaid bowl hidden under clothes in a laundry basket containing \$ 1,940.00 in cash and another stored value ATM card; (4) sixty three (63) stored value ATM cards located in a sock hidden in a pair of pants

hanging in the master bedroom closet; and (5) a counterfeit state of Ohio drivers license in the name of "Erich Laurence Reed" with the picture of JOHNSON located in a blue bag in the master bedroom closet.

13. On 04/06/06, Agents of this Service interviewed Jason Sturgill (hereafter "STURGILL") regarding his relationship with JOHNSON. STURGILL stated that he was employed as a bouncer for a topless night club located in Columbia, SC, where JOHNSON was a frequent customer. STURGILL stated that JOHNSON had a friend, Eric McFall, who was assisting JOHNSON with the filing of fraudulent tax returns. STURGILL stated that McFall told him that JOHNSON owed him (McFall) one thousand five hundred (\$1,500.00) for providing JOHNSON with two hundred fifty (250) names, dates of birth, and social security numbers. STURGILL stated that McFall got the information from the internet after JOHNSON "told him where to look" and that the information would be used to file fraudulent tax returns.
14. Continuing on 04/06/06, Agents of this Service interviewed Eric McFall (hereafter "MCFALL") regarding his relationship with JOHNSON. MCFALL stated that in early March 2006 JOHNSON offered him \$2,000 in return for providing two hundred fifty (250) 'names' (the term 'names' includes Name, Social Security Number, and Date of Birth). MCFALL further stated that these names and identity information were to be used by JOHNSON to "make money". MCFALL stated that JOHNSON met him at FedEx Kinko's in February 2006, inserted a FedEx Kinko's card into a computer, got online and went to the site for the California Death Index. MCFALL stated that JOHNSON showed him how to compile the names and information and how to check to see if a death credit had been claimed on the Social Security Website. MCFALL further stated that JOHNSON demonstrated this process with two (2) names and told him how to get all of the information and how the information should look before giving it to him (JOHNSON).
15. MCFALL stated that he began collecting names for JOHNSON later that night using his home computer located at 314 Bonbon Lane, Blythewood, SC. MCFALL stated that he accumulated the two hundred fifty (250) names over a period of three (3) days. MCFALL further stated that he created a text file on his home computer and named it "Ways and Means".
16. MCFALL stated that he went to a friend, the owner of Miano Vision (Irmo, SC), a couple of days later and asked him for a flash drive (thumb drive). MCFALL stated that he took the flash drive home and copied the text file that he created for JOHNSON containing the two hundred fifty (250) names to the flash drive.

17. MCFALL further stated that he met JOHNSON a couple of days later at a local bar to give him (JOHNSON) the thumb drive. MCFALL stated that JOHNSON took possession of the thumb drive and told him that he would pay him the \$2,000 the following Wednesday for the information contained on the thumb drive.
18. MCFALL described the thumb drive as being gray-colored and labeled "Miano Vision". This matches the description of the thumb drive located in the USSS undercover apartment, occupied by JOHNSON during his work with this Service as a Confidential Informant.
19. On 04/07/06, pursuant to a Federal Search Warrant, a forensic examination was conducted of the "Miano Vision" thumb drive obtained from the USSS undercover apartment, occupied by JOHNSON during his work with this Service as a Confidential Informant. The forensic examination yielded a file named "ways and means.txt" which contained over two hundred sixty (260) names and personal identifiers. The file was created on 03/21/06.
20. On 04/12/06, a forensic examination of MCFALL's home computer (pursuant to a Consent to Search) yielded a file named "ways and means.txt" which contained over two hundred sixty (260) names and personal identifiers. The file was created on 03/15/06 and was last accessed on 03/21/06. In addition, several web pages and internet files were located from the website "www.vitalsearch-ca.com" (location of the California Death Index).
21. On 04/19/06, subpoenaed information regarding the "ez paisano" stored value cards obtained from the USSS undercover apartment, occupied by JOHNSON during his work with this Service as a Confidential Informant, documented that eleven (11) of the stored value cards had received tax return deposits from the IRS totaling eight thousand six hundred eighty four dollars and fifty five cents (\$8,684.55). The deposits were placed on the cards on 03/24/06 and 03/29/06. In addition, funds were withdrawn from Bank of America ATMs (located at the Columbian Center and Bi-Lo # 64, Columbia, SC) on 03/24/06 and 03/29/06 totaling five thousand four hundred seventy four dollars (\$5,474.00); a Walgreen's Cardtronics ATM (located at 4300 Highway 17 South, North Myrtle Beach, SC) on 03/25/06 and 03/26/06 totaling one thousand six hundred ninety one dollars and seventy cents (\$1,691.70); and a Sun-Do Kwik Shop ATM (located in Lumberton, NC) on 03/24/06 totaling six hundred six dollars (\$606.00).
22. On 05/02/06, this office obtained the video surveillance tape from Walgreen's Store # 6687, 4300 Highway 17 South, North Myrtle Beach, SC, for the date of 03/25/06. The video surveillance tape shows JOHNSON making three (3)

ATM withdrawals from three (3) stored value cards. The time span during the ATM withdrawals made by JOHNSON corresponds with the same time frame reported in subpoenaed documentation received from West Suburban Bank for three (3) ATM withdrawals from the ez paisano stored value cards for a total amount of one thousand two hundred five dollars and eighty five cents (\$1,205.85).

23. On 05/17/06, this office received a police report from Detective Pat Walsh, Flathead County Sheriff's Office, Kalispell, MT, regarding the fraudulent tax return filed in the name of Christopher Gill, using Gill's issued Social Security Number. According to Detective Walsh, Gill states that he did not file this return and was not aware of the filed return. The tax return was deposited to account number 4776 7820 0203 53030 which is registered to ez paisano card number 5609720020353030. This card was obtained from the USSS undercover apartment being occupied by Johnson on 03/31/06.
24. Subpoenaed documentation for this stored value card shows that an IRS tax return deposit was received on the card on 03/29/05 in the amount of \$790.05. An ATM withdrawal was made from a Bank of America ATM located in Bi-Lo Grocery Store #64, Columbia, SC, on 03/29/06.
25. On 05/17/06, this office received an investigative report from Steve Hix, Nebraska Department of Justice, Office of the Attorney General, regarding the fraudulent tax return filed in the name of Kaylene Swanson, using Swanson's issued Social Security Number. According to Steve Hix, Swanson states that she did not file this return and was not aware of the filed return. The tax return was filed on 03/01/06 through H&R Block using the AOL email account kyswan@aol.com and IP address 63.164.145.161. The tax return was in the amount of \$829.00 and was electronically transferred to an account used by H&R Block, with Household Service Bank of New York, routing number 071002053, account number 10877987507665213. This return was then transferred, in the form of a loan, to the following account: routing number 063115194, account number 60294801. A withdrawal in the amount of \$392.00 was made from this account on 03/07/06 at the Bank of America ATM located at Bi Lo #526, Irmo, SC.
26. A "who is" search of the IP address 63.164.145.161 revealed that it is assigned to FedEx Kinko's. Through a subpoena, served by the State of Nebraska Attorney's General Office, it was determined that FedEx Kinko's could not provide the location or user information relating to this IP address due to a problem with their server logs.

27. Routing number 063115194 and account number 60294801 are assigned to Mio prepaid card # 6276 9904 0294 8016. Pursuant to records obtained through subpoena from PRE Holdings (parent company of Mio), this card was purchased at the Pilot Travel Center, 3008 Highway 321, Cayce, SC on 03/01/06. This card was activated using the following phone number: 803-210-5008. This phone number was a Cingular cellular telephone used by Brett Johnson from 09/09/05 through at least 03/30/06. Records for this phone were obtained through Grand Jury subpoena and show sixty-eight (68) phone calls to 866-840-6461 from 03/02/06 through 03/03/06. This is the phone number used to activate Mio prepaid cards.

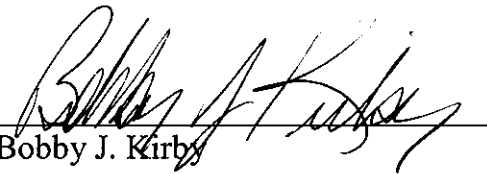
Probable Cause

28. In support of this application, I depose and say that the probable cause for the arrest of JOHNSON for violations of Title 18 U.S. Code §1028A (Aggravated Identity Theft), Title 18 U.S. Code §1029 (Fraud and related activity in connection with access devices) Title 18 U.S. Code §1343 (Fraud by wire, radio, or television), Title 42 U.S. Code §408(a)(7)(B) (Misuse of a Social Security Number) and Title 18 U.S. Code §371 (Conspiracy to commit offense or defraud the United States).
- a. JOHNSON did, during an interview with Agents of this Service, admit to using a computer and going online without the express authorization, direct supervision and physical monitoring by Agents of the USSS.
 - b. A search conducted by Agents of this Service at the undercover USSS apartment, located at 3609 Juneau Road, Apt. 22-B, Columbia, SC 29210, yielded several items of evidence relating to ongoing fraud schemes, fraud and related activity in connection with identification documents, authentication features, and information, and fraud and related activity in connection with access devices.
 - c. The stored value cards found in the USSS apartment being occupied by JOHNSON were issued by the same company, ez paisano, and distributed by the same bank, West Suburban Bank, as those being utilized by the criminal target in Los Angeles, CA, whom JOHNSON spoke with on a frequent basis regarding the filing of fraudulent tax returns.
 - d. The thumb drive referenced in this affidavit was discovered in close proximity to a memo book containing various account numbers and personal identification numbers.

- e. MCFALL, an associate of JOHNSON, did, during an interview with Agents of this Service, admit to compiling a list of two hundred fifty (250) names (to include name, social security number and date of birth) for JOHNSON in return for \$2,000.
- f. MCFALL, during this same interview, did admit to copying a text file, containing the names referenced above, from his home computer to a gray-colored thumb drive labeled "Miano Vision" and giving it to JOHNSON.
- g. A forensic examination of the "Miano Vision" thumb drive obtained from the USSS undercover apartment being occupied by JOHNSON yielded a file named "ways and means.txt" containing over two hundred sixty (260) names, dates of birth and social security numbers.
- h. A forensic examination of MCFALL's home computer yielded a file named "ways and means.txt" containing over two hundred sixty (260) names, dates of birth and social security numbers. In addition, several internet pages were located from the California Death Index.
- i. Transaction history on the stored value cards obtained from the USSS undercover apartment being occupied by JOHNSON reveals automated IRS tax returns being deposited to the cards referenced above in the amount of eight thousand six hundred eighty four dollars and fifty five cents (\$8,684.55).
- j. Transaction history on the stored value cards obtained from the USSS undercover apartment being occupied by JOHNSON documents funds withdrawn from ATMs in South Carolina and North Carolina totaling seven thousand seven hundred seventy one dollars and seventy cents (\$7,771.70). Included in the ATM withdrawals are three (3) withdrawals from a Walgreen's Cardtronics ATM, located at 4300 Highway 17 South, North Myrtle Beach, SC, on 03/25/06 totaling one thousand two hundred five dollars and eighty five cents (\$1,205.85).
- k. Video surveillance tape obtained from Walgreen's Store # 6687, 4300 Highway 17 South, North Myrtle Beach, SC, for the date of 03/25/06 shows JOHNSON making three (3) ATM withdrawals from three (3) stored value cards. The time span during the ATM withdrawals made by JOHNSON corresponds with the time frame

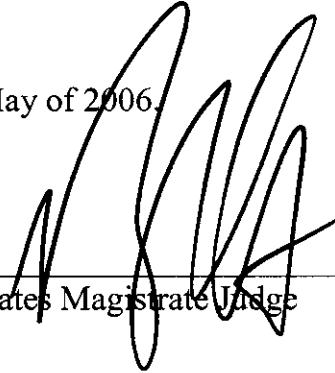
reported in subpoenaed documentation received from West Suburban Bank for three (3) ATM withdrawals from the ez paisano stored value cards for a total amount of one thousand two hundred five dollars and eighty five cents (\$1,205.85).

1. A police report was filed by Christopher Gill, SSN 316-60-6337, with the Flathead County Sheriff's Office, Kalispell, MT, for Identity Theft and the filing of a fraudulent tax return in the name of Christopher Gill, SSN 316-60-6337. The tax return was deposited to account number 4776 7820 0203 53030 on 03/29/06 which is registered to ez paisano card number 5609720020353030. In addition, an ATM withdrawal in the amount of \$790.05 was made from the card on 03/29/06 from a Bank of America ATM located in Bi-Lo Grocery Store #64, Columbia, SC.
 - m. A police report was filed by Kaylene Swanson, SSN 507-66-5213, with the Oakland, NE Police Department for Identity Theft and the filing of a fraudulent tax return in her name. The funds available from this tax return were electronically transferred to account number 60294801, routing number 063115194. These numbers identify a Mio prepaid card, account number 6276 9904 0294 8016, purchased in South Carolina and activated using a Cingular cellular telephone owned by Brett Johnson. An ATM withdrawal in the amount of \$392.00 was made on 03/07/06 at Bi Lo # 526, Irmo, SC using this card.
 - n. For the reasons set forth above, I believe that evidence of violations of Title 18 U.S. Code §1028 (Fraud and related activity in connection with identification documents, authentication features, and information), Title 18 U.S. Code §1029 (Fraud and related activity in connection with access devices), Title 18 U.S. Code §1343 (Fraud by wire, radio, or television) and Title 18 U.S. Code §371 (Conspiracy to commit offense or defraud the United States) exists against Brett Shannon JOHNSON. Therefore, your affiant requests that a warrant for the arrest of Brett Shannon JOHNSON be issued by this honorable court for violations of Title 18 U.S. Code §1028A, Title 18 U.S. Code §1029, Title 18 U.S. Code §1343, Title 42 U.S. Code §408(a)(7)(B), and Title 18 U.S. Code §371 .
24. This affidavit has been reviewed and approved by AUSA Dean Eichelberger, Columbia Division.



Bobby J. Kirby
Special Agent
U.S. Secret Service
Columbia Field Office

Subscribed and sworn before me this 22nd day of May of 2006.



United States Magistrate Judge